

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 307

Served September 20, 1963

IN THE MATTER OF:

Application of the Alexandria, Barcroft)
and Washington Transit Company, d/b/a) Application No. 43
A. B. & W. Transit Company, for Certifi-)
cate of Public Convenience and Necessity.)

The Commission has heretofore, by Order No. 291, served August 8, 1963, referred this matter to an examiner for processing and issuance of a proposed certificate.

There follows hereafter the report and proposed certificate as prepared by examiner Russell W. Cunningham. Any interested person may file exceptions thereto in accordance with the rules of practice and procedure and regulations of this Commission.

PROPOSED REPORT

The Alexandria, Barcroft and Washington Transit Company, d/b/a A. B. & W. Transit Company (hereafter sometimes A. B. & W.), Alexandria, Virginia, seasonably filed an application for a certifi-

cate of public convenience and necessity pursuant to Section 4(a)¹ of Article XII, of the Washington Metropolitan Area Transit Regulation Compact (hereafter "Compact"), alleging that it was, on March 22, 1961, (the effective date of the Compact), bona fide engaged in transporting passengers for hire in motor vehicles in regular route common carriage, and irregular route special and charter operations. Filed as a part of the application were various exhibits required by the Commission, including a detailed description of all regular routes, a list of vehicles, evidence of operating authority previously issued to it by the Interstate Commerce Commission ("ICC"), and the State Corporation Commission ("SCC"), of Virginia, financial data, and a statement setting forth the scope of the operating authority sought by this application.

The applicant is entitled to a certificate authorizing such transportation as it was bona fide engaged in on March 22,

1/ "4(a) No person shall engage in transportation subject to this Act unless there is in force a certificate of public convenience and necessity issued by the Commission authorizing such person to engage in such transportation; provided, however, that if any person was bona fide engaged in transportation subject to this Act on the effective date of this Act, the Commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the Commission within 90 days after the effective date of this Act. Pending the determination of any such application, the continuance of such operation shall be lawful."

1961. The following is a detailed description of the transportation performed by the applicant on that date as set forth in its application.

Regular Routes: Generally, the applicant was engaged in regular route operations in intrastate Virginia commerce in the City of Alexandria, that portion of Arlington County south of U. S. Route 10 (Arlington Boulevard), and that portion of Fairfax County south of a line running along U. S. Route 50--U. S. 495--Virginia Route 36--Virginia Route 651--Virginia Route 620--U. S. Routes 29 and 211, and in interstate commerce between the above described Virginia locales and points and places in the District of Columbia. The authority issued by the ICC was from the above Virginia locations over certain routes to the District of Columbia and return. No routes within the District of Columbia were described. The District of Columbia Public Utilities Commission ("PUC"), had specified, for traffic control purposes, certain routes to be utilized by the applicant from the District of Columbia boundary to a terminal at 12th Street and Pennsylvania Avenue. The applicant did not conduct intradistrict of Columbia regular route service. It did not conduct regular route operations within the State of Maryland. Passengers travelling from the District of Columbia to points and places in Virginia were picked up at any point on its routes. Section 1(b), Article XII, Compact, exempts intrastate Virginia commerce from the jurisdiction of this Commission, leaving such transportation

th the State Corporation Commission (SCC) of Virginia.

Irregular Routes, and Charter and Special Operations: Under the laws of the District of Columbia, any person could transport passengers for hire over irregular routes in charter and special operations within the District of Columbia merely by securing the proper license rates and fulfilling other registration requirements. No showing of public convenience and necessity was required. The transportation could be sold to groups or individuals.

The Virginia State Corporation Commission had issued to the applicant a certificate authorizing special and charter parties from all points in Virginia to all points in Virginia.

Under the Interstate Commerce Act transportation of passengers in charter and special operations was broken down into three categories: first, Section 208(c) provides that any common carrier transporting passengers under a certificate issued under Part II could transport to any place special or charter parties. The word parties has been construed by the ICC to exclude individual tickets. This Section confers the so-called "incidental" rights. Secondly, Section 20(a) provides for charter and special operations under specific authority. It is this type of authority which carries with it the right to sell transportation to individuals. Thirdly, Section 203(b)(8) of the Act, commonly known as the Commercial Zone exemption, provides that transportation of passengers within a

municipality or between contiguous municipalities, or within a zone adjacent to and commonly a part of those municipalities, is exempt from the certificate requirement of the Act, provided that the motor carrier engaged in the interstate commerce is also lawfully engaged in the intrastate transportation of passengers over the entire length of the interstate route. Transportation performed under this exemption could be sold on a party or individual basis.

The applicant had also been issued a Certificate of Public Convenience and Necessity by the State Corporation Commission of Virginia authorizing it to furnish sightseeing service on a regular route from the City of Alexandria to the Memorial Bridge over Route 1, then tour Arlington National Cemetery and the Statue of Iwo Jima and The Pentagon, then tour the City of Alexandria, following George Washington Memorial Parkway to Mount Vernon and returning to the City of Alexandria. This transportation was, and remains, subject to the exclusive jurisdiction of the SCC.

A. B. & W. was authorized by the ICC to conduct special operations from Alexandria, Virginia, and those points in Arlington County served on regular routes to racetracks at Marlboro; Bowie; Laurel; and the raceway at Rosecroft, Maryland, and return.

Actual operations as of March 22, 1961, appear to include charter and special operations, including sightseeing, by parties only (and not by the sale of individual tickets in sight-

seeing and other special operations), except the special operations to the racetracks hereinabove described. It further appears that A. B. & W. originated charter and special operations from the District of Columbia, the City of Alexandria, that portion of Arlington County north and south of U. S. Route 50, and that portion of Fairfax County north and south of a line running along the highways hereinabove described. The applicant did not originate charter trips within the State of Maryland.

Prior to and on the effective date of the Compact, airline transportation to and from the Washington Metropolitan District was confined almost exclusively to the Washington National Airport, located at Gravelly Point, Arlington County, Virginia, which is adjacent to the City of Alexandria and the District of Columbia. It is readily apparent that the National Airport lies in the heart of the territory served by the applicant. Subsequently, in November, 1962, Dulles International Airport was opened to the public. Part of the Airport is located in Loudoun County and part in Fairfax County, Virginia, to the north of U. S. Routes 29 and 211, and west of U. S. Route 50. It is obvious that applicant was not engaged in any transportation from the Dulles Airport on March 22, 1961, and therefore is not entitled to any "grandfather" authority for this transportation. The exemption provided by Section 203(b)(7a) of the Interstate Commerce Act for the transportation of passengers when incidental to transportation by aircraft was not carried over into the Compact, and such transportation, when within the Metropolitan District,

ust be authorized by a certificate.

It is the opinion of the examiner that the following proposed certificate embraces all of the transportation engaged in by the applicant on March 22, 1961, that is subject to the jurisdiction of this Commission.

PROPOSED CERTIFICATE

It is recommended that a Certificate of Public Convenience and Necessity be granted to the Alexandria, Barcroft and Washington Transit Company, d/b/a A. B. & W. Transit Company, to transport passengers for hire as follows:

A. REGULAR ROUTE COMMON CARRIER OPERATIONS:

Passengers and their baggage, and express and newspapers, in the same vehicle:

1. Between Washington, D. C., and points and places in Arlington County, on and south of U. S. Route 50.
2. Between Washington, D. C., and points and places in Fairfax County on and south of a line running along U. S. Route 50--U. S. Route 495--Virginia Route 236--Virginia Route 651--Virginia Route 620--U. S. Routes 29 and 211.
3. Between Washington, D. C., and points and places within the City of Alexandria.

RESTRICTION: No passenger shall be picked up and discharged within the District of Columbia.

This service shall be operated over the routes described in Application No. 43, which have heretofore been received and given File Numbers. Some of these routes have been amended by Commission order and are so reflected in current File Numbers. Any minor changes in or deviations of said routes shall be in accordance with the rules and regulations of the Commission.

B. IRREGULAR ROUTES:

Passengers and their baggage:

Special Operations:

Between all points and places in the Washington Metropolitan Area Transit District as defined by the Washington Metropolitan Area Transit Regulation Compact.

Restrictions:

1. The service herein authorized is restricted against the transportation of passengers and their baggage between any two points in the State of Maryland.
2. The service herein authorized is restricted against the transportation of passengers and their baggage

from points and places in the State of Maryland to points and places in the District of Columbia and the Commonwealth of Virginia.

3. Special Operations in the Commonwealth of Virginia may be originated at points and places on the carrier's regular routes specified herein; that portion of Arlington County on, south and east of U. S. Highway 50, and that part of Fairfax County on, south and east of a line beginning at the intersection of U. S. Highway 50 and the Fairfax-Arlington Counties boundary line, west on U. S. Highway 50 to its intersection with Capital Beltway (U. S. Interstate Highway 495), thence south on Capital Beltway (U. S. Interstate Highway 495), to its intersection with Virginia State Highway 236, thence west on Virginia State Highway 236 to its intersection with Virginia State Highway 651, thence south on Virginia State Highway 651 to its intersection with Virginia State Highway 620, thence west on Virginia State Highway 620 to its intersection with U. S. Highways 29 and 211, and thence west on U. S. Highways 29 and 211 to the intersection of the Fairfax and Fauquier Counties boundary line.

C. CHARTER OPERATIONS:

Passengers and their baggage in the same vehicle:

Between all points and places in the Washington Metropolitan Area Transit District as defined by the Washington Metropolitan Area Transit Regulation Compact,

Restrictions:

1. The service herein authorized is restricted against the transportation of passengers and their baggage in charter operations originating at points and places in the State of Maryland.
2. Charter operations in the Commonwealth of Virginia may be originated at points and places on the carrier's regular routes specified herein; that portion of Arlington County on, south and east of U. S. Highway 50, and that part of Fairfax County on, south and east of a line beginning at the intersection of U. S. Highway 50 and the Fairfax-Arlington Counties boundary line, west on U. S. Highway 50 to its intersection with the Capital Beltway (U. S. Interstate Highway 495), thence south on the Capital Beltway (U. S. Interstate Highway 495) at its intersection with Virginia State Highway 236, thence west on Virginia State Highway 236 to its intersection

with Virginia State Highway 651, thence south
on Virginia State Highway 651 to its intersection
with Virginia State Highway 620, thence west on
Virginia State Highway 620 to its intersection
with U. S. Highways 29 and 211, and thence west
on U. S. Highways 29 and 211 to the intersection
of the Fairfax and Fauquier Counties boundary line.

The above granted irregular route authority is for
group or party only and not individual, except for
special operations to and from the racetracks
described above.

Any repetition in the statement of authority granted herein
shall not be construed as conferring more than one operating right.

FOR THE COMMISSION:

A handwritten signature in dark ink, appearing to read "Delmer Ison", written over a horizontal line.

DELMER ISON
Executive Director